

## Message Text

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PAGE 01 OECD P 24475 01 OF 03 222017Z

64

ACTION EUR-12

INFO OCT-01 EA-07 IO-10 ISO-00 NEA-10 OPIC-03 SSO-00

NSCE-00 USIE-00 INRE-00 FEA-01 AGR-05 CEA-01 CIAE-00

COME-00 DODE-00 EB-07 FRB-03 H-02 INR-07 INT-05 L-03

LAB-04 NSAE-00 NSC-05 PA-01 AID-05 CIEP-01 SS-15

STR-04 TAR-01 TRSE-00 PRS-01 SP-02 OMB-01 EURE-00

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O R 221954Z SEP 75

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TO SECSTATE WASH DC IMMEDIATE 8533

INFO AMEMBASSY ANKARA

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PAGE 02 OECD P 24475 01 OF 03 222017Z

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E.O. 11652: N/A

TAGS: ETRD, OECD

SUBJECT: TRADE COMMITTEE WORKING PARTY ON GOVERNMENT  
PURCHASING, SEPT. 15-19

1. SUMMARY: SEPT. 15-19 MEETING OF TRADE COMMITTEE WORKING PARTY (TCWP) ON GOVERNMENT PROCUREMENT PROVIDED MOST USEFUL DISCUSSION TO DATE ON MAJOR ISSUES OF DRAFT CODE SUCH AS DISPUTE SETTLEMENT, DEROGATIONS, OVERALL BALANCE OF AGREEMENT AND NON-DISCRIMINATION, BUT THIS COULD NOT BE REFLECTED IN PERFECTIONS IN THE TEXT. ALL DELS RECOGNIZE IMPORTANCE OF NEXT MEETING IN DECEMBER FOR MAJOR DECISION MAKING. END SUMMARY

2. ENTITIES: EC COMMISSION DEL (DERISBOURG) ARGUED THAT ACHIEVING BALANCE IN CODE WOULD REQUIRE NEGOTIATION OF LISTS OF ENTITIES FOR EACH PARTICIPANT, AND THAT GROUP SHOULD DISCUSS MODALITIES FOR MODIFYING LISTS TO RETAIN BALANCE WHEN CHANGES IN ENTITY COVERAGE OCCURRED. HE SAID HIS CALCULATIONS SHOWED EC-9 PROCUREMENT MARKET WAS WORTH AT LEAST \$10 BILLION WHILE US ONLY WORTH \$7 BILLION, AND EC WOULD PROBABLY HAVE TO EXCLUDE ENTITIES HANDLING RAILWAYS, ELECTRICITY, AND TELECOMMUNICATIONS, AT LEAST TO START WITH. CANADA (BERNES) AND US (POMERANZ) SUGGESTED ONLY WAY TO JUDGE BALANCE WAS FOR EACH COUNTRY TO MAKE OWN APPRAISAL ON BASIS FULLEST POSSIBLE INFORMATION ON OTHERS' PURCHASING ENTITIES, WHICH WOULD ENABLE ESTIMATION OF IMPACT OF EXCLUSIONS BEING SUGGESTED BY SOME DELS. DISCUSSION CONFIRMED OUR SUSPICION THAT ENTITY LISTS PROVIDED IN RECENT DATA SUBMISSIONS WERE NOT ACCURATE REFLECTION OF ALL GOV'T ENTITIES AND ENTITIES SUBJECT TO GOVERNMENT CONTROL.  
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PAGE 03 OECD P 24475 01 OF 03 222017Z

DELS AGREED FOR NEXT MEETING TO INDICATE TO SECRETARIAT ANY CHANGES NECESSARY IN EARLIER DATA SUBMISSIONS TO GIVE MORE ACCURATE PICTURE OF UNIVERSE OF ENTITIES FOR WHICH GOVERNMENTS WOULD BE IN LEGAL POSITION TO APPLY INSTRUMENT WHEN FINALLY NEGOTIATED.

3. DEROGATIONS: EXCHANGE OF VIEWS ON THIS SUBJECT WAS WIDE RANGING, WITH EVERY IMPORTANT DEL GIVING, FOR

FIRST TIME, DEGREE OF SPECIFICITY TO THEIR CONCEPTIONS OF DEROGATIONS NEEDED. (FULL REPORT BEING FORWARDED BY AIRGRAM). EC COMMISSION DEL SUGGESTED COMPULSORY CODE WOULD OF NECESSITY REQUIRE SOME ESCAPE CLAUSE AND SAID HIS ANALYSIS INDICATED FOUR AREAS WHERE REQUESTS FOR DEROGATIONS WERE LIKELY: INFANT INDUSTRIES, REGIONAL AIDS, SMALL BUSINESS ASSISTANCE, AND BALANCE OF PAYMENTS. US, FRANCE, DENMARK, SWITZERLAND, AND IRELAND INDICATED STRONG PREFERENCE FOR NO DEROGATIONS, WITH LATTER THREE MAKING STATEMENTS ABOUT INAPPROPRIATENESS OF USING PURCHASING POLICY TO ACHIEVE SOCIO-ECONOMIC PURPOSES. CANADIANS WERE MORE AMBIGUOUS AND SHARED US VIEW THAT IF THERE WERE TO BE ANY DEROGATIONS THEY SHOULD BE VERY TIGHTLY DRAFTED. SWEDEN AND FINLAND DESIRED DEROGATION FOR "TEMPORARY EMPLOYMENT PROBLEMS". GERMANS, ITALIANS, AUSTRALIANS, JAPANESE, AND UK EACH INDICATED THAT DEROGATIONS IN ONE OR MORE OF CATEGORIES OF EC COMMISSION ANALYSIS WOULD PROBABLY BE NECESSARY. SPAIN AND TURKEY SAID THEY WOULD NEED GENERAL DEROGATIONS IN VIEW OF THEIR LEVEL OF DEVELOPMENT. US AND CANADA FAILED IN ATTEMPT TO GET DELS DESIRING DEROGATIONS TO DEVELOP PRELIMINARY TEXTS BEFORE END OF MEETING, BUT GROUP

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PAGE 01 OECD P 24475 02 OF 03 222022Z

64

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PAGE 02 OECD P 24475 02 OF 03 222022Z

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AGREED TO MAKE SUBJECT MAJOR TOPIC OF NEXT MEETING, HOPEFULLY ON BASIS OF TEXTS EARLIER SUBMITTED BY DELS AND FINALIZED IN CAUCUS ON FIRST AFTERNOON OF NEXT MEETING.

4. SINGLE TENDERING: US APPEALED TO OTHER DELS TO RECONSIDER THEIR STANDS ON THIS ISSUE IN LIGHT OF DISCUSSION ON DEROGATIONS. US DEL SUGGESTED THAT IF OTHER DELS INSISTED ON MAINTAINING SUBSTANCE OF CERTAIN OF THESE SINGLE TENDERING SITUATIONS THEY SHOULD BE DEALT WITH AS DEROGATIONS. PARTICIPANTS, HOWEVER, SHOWED NO DISPOSITION TO MOVE AWAY FROM FIXED POSITIONS.

5. STATISTICS: DISCUSSION ON STATISTICS WAS LARGELY REPLAY OF EARLIER MEETING, EXCEPT THAT THERE WAS EVIDENCE

THAT SOME DELS WERE PLACING HIGHER VALUE ON STATISTICS FOR PURPOSES OF THE NEGOTIATION. A FEW GOVERNMENTS INDICATED WILLINGNESS TO SUPPLY ADDITIONAL DATA TO SECRETARIAT FOR THIS PURPOSE. GROUP DID NOT ACCEPT EC IDEA FOR MEETING OF STATISTICAL EXPERTS BUT THOUGHT INCLUSION OF EXPERT IN DELS TO NEXT MEETING OF WORKING PARTY COULD BE HELPFUL IN HAVING MORE IN-DEPTH DISCUSSION OF STATISTICS ISSUE AT THAT TIME.

6. SURVEILLANCE: US DEL SET OUT CASE FOR COMPRO-MISE SURVEILLANCE/DISPUTE SETTLEMENT PROPOSAL PRESENTED AT APRIL MEETING, EMPHASIZING US REQUIREMENT FOR IMPARTIAL EXPERT BODY TO CONSIDER SERIOUS DISPUTES. HE SUGGESTED GOVERNMENT PROCUREMENT WAS SUFFICIENTLY UNIQUE CASE THAT GROUP SHOULD BE ABLE TO DESIGN SURVEILLANCE MECHANISM WITHOUT CONCERN FOR IMPLICATIONS IN OTHER NTB AGREEMENTS. US DEL URGED THAT HIS PROPOSAL, WHICH LIMITED OFFICIAL USE

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PAGE 03 OECD P 24475 02 OF 03 222022Z

PROVIDES A NEGATIVE VETO FOR PLENARY BODY, MAINTAINS INTEGRITY OF DISPUTE SETTLEMENT PROCEDURE THROUGH A CHECKS AND BALANCES SYSTEM. THE PROPOSAL FURTHER ENSURES FULL RIGHTS OF SOVEREIGNTY BY ALLOWING PLENARY BODY TO ACCEPT ANY VARIANT OF AD HOC SUBCOMMITTEE SYSTEM. WHILE EC AND OTHER DELS EXPLAINED THAT DISPUTES RISING TO SUCH A LEVEL WOULD INVARIABLY INVOLVE MATTERS OF PRINCIPLE AND INTERESTS OF ALL SIGNATORIES, WITH CONSEQUENCE THAT DECISIONS MUST BE MADE BY PLENARY COMMITTEE, THEY WILL SERIOUSLY CONSIDER US PROPOSAL ALONG WITH SWEDISH IDEA FOR SUBCOMMITTEE/PANEL WITH RELATIVELY LIMITED COMPETENCE.

7. NON-DISCRIMINATION: USDEL EXPLAINED THAT IN ACCORDANCE WITH SECRETARY KISSINGER'S REMARKS TO THE UN, THE TREATMENT TO BE GIVEN TO LDC'S IS FOREMOST IN OUR MINDS. CANADA AGREED WITH US POSITION BUT URGED THAT WE WAIT TO SEE WHAT KIND OF AGREEMENT EVOLVES FROM THE EXERCISE. THERE WAS GENERAL ACCEPTANCE OF DRAFT PARA 43 EXCEPT REGARDING RULES OF ORIGIN AND MFN OBLIGATIONS OF MEMBERS OF CUSTOMS UNIONS AND FREE TRADE AREAS. US EXPLAINED THAT IT IS FLEXIBLE ON ORIGIN RULES BUT WANTS TO GUARD AGAINST POSSIBILITY OF DISCRIMINATION AND DUALITY OF ORIGIN SYSTEMS. IT INVITED SOLUTIONS TO ORIGIN PROBLEM THAT WOULD GUARANTEE NON-DISCRIMINATORY APPLICATION. MOST DELS MAINTAINED THAT ONLY FEASIBLE APPROACH TO ORIGIN RULES WAS FOR EACH COUNTRY TO APPLY ITS OWN. SWEDEN AND EC WERE FIRM IN VIEW THAT ADVANTAGES WITHIN FTA'S AND CUSTOMS UNIONS GOING BEYOND CODE COULD NOT AUTOMATICALLY BE EXTENDED TO OTHER SIGNATORIES. EC CLEARLY STATED, HOWEVER, THAT IT IS FLEXIBLE

AND THAT THERE MAY BE SOME WAY OF SATISFYING US CONCERNS, BUT NOT AUTOMATICALLY.

8. CONDITIONS OF AWARD: NO PROGRESS WAS MADE IN REMOVING SQUARE BRACKETS ON PARA 32 ON LICENSING, AND PROPONENTS OF CONDITIONING AWARDS ON OFFSETS REFUSED IDEA OF SHIFTING THIS TO DEROGATIONS SECTION OF INSTRUMENT.

9. FINAL PROVISIONS: EC COMMISSION DEL PROPOSED GROUP LIMITED OFFICIAL USE

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PAGE 04 OECD P 24475 02 OF 03 222022Z

TAKE UP QUESTIONS OF ACCESSION, ENTRY INTO FORCE, AND WITHDRAWAL, WITH EMPHASIS ON IDEA THAT FORMAL PROVISIONS ON PARTICIPATION OF "KEY COUNTRIES" WERE ESSENTIAL ELEMENT OF INSTRUMENT. CANADA AND US THOUGHT SUBJECT WAS PREMATURE GIVEN PROBLEMS REMAINING IN SUBSTANTIVE PORTIONS OF CODE, AND LATTER URGED GROUP AVOID MIXING BALANCE ISSUE INTO THIS SECTION OF INSTRUMENT. GROUP AGREED SECRETARIAT SHOULD DO SUMMARY NOTE ON DISCUSSION FOR NEXT MEETING AND DELS WOULD BE FREE TO SUBMIT THEIR IDEAS FOR LANGUAGE IN THIS PART OF INSTRUMENT OR SUGGEST OTHER AGREEMENTS WHICH MIGHT SERVE AS USEFUL PRECEDENTS.

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PAGE 01 OECD P 24475 03 OF 03 222016Z

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INFO AMEMBASSY ANKARA  
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PAGE 02 OECD P 24475 03 OF 03 222016Z

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10. OTHER ITEMS: AT CANADIAN REQUEST GROUP EXAMINED  
NUMBER OF OTHER UNRESOLVED ITEMS (EXCEPTIONS, TELEX/  
TELEGRAPH SUBMISSION OF BIDS, EX POST PUBLICITY), BUT  
DISCUSSION REVEALED NO CHANGES OF POSITION. MOST DELS  
INDICATED RESISTANCE TO U.S. PROPOSALS ON PRACTICES AND  
PROCEDURES WHICH WOULD GUARANTEE THE TRANSPARENCY OF  
THE SYSTEM ON THE BASIS THAT THEY BELIEVE THEIR  
CURRENT PRACTICES TO BE SUFFICIENT AND THAT THERE IS  
NO NECESSITY FOR UNIFORMITY IN SUCH PRACTICES.

11. FUTURE WORK: WORKING PARTY WOUND UP MEETING WITH INTENSE DISCUSSION OF PROSPECTS FOR FURTHER PROGRESS AND FOCUS OF NEXT MEETING. ACTING ON WARNING BY US THAT EC AND OTHERS QUESTIONED THEIR SINCERITY IN NEGOTIATING IN OECD, CANADIANS STRESSED THAT THEY WERE WILLING TO TALK IN ANY FORUM WHERE PROGRESS MIGHT BE MADE AND HAD NO PREDISPOSITION TO MOVE MATTER TO GENEVA. EC COMMISSION FELT FURTHER PROGRESS COULD BE MADE, PARTICULARLY IN AREAS OF DEROGATIONS, STATISTICS, SURVEILLANCE, AND NON-DISCRIMINATION, BEFORE REPORTING TO TRADE COMMITTEE. US DEL TOLD GROUP US INTENDED TO RAISE ISSUE OF DETAILED REPORT AT TRADE COMMITTEE MEETING FOLLOWING WEEK. MOST DELS URGED OTHERS TO TAKE MORE SERIOUS APPROACH TO RESOLVING ISSUES, AND US MADE STRONG STATEMENT AS TO IMPORTANCE OF NEXT MEETING. HE STRESSED THAT US ASKING FOR NO DEROGATIONS; IS PREPARED TO PUT ITS FULL FEDERAL ESTABLISHMENT UNDER APPLICATION OF CODE; AND IS WILLING TO CONSIDER REPEAL OF THOSE RESTRICTIVE ELEMENTS OF ITS PROCUREMENT SYSTEM WHICH WOULD FULLY RECIPROCATATE WHAT OTHER GOVERNMENTS WERE PREPARED TO OFFER TO US. HE NOTED US PRESENT VIEW THAT LIMITED OFFICIAL USE

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PAGE 03 OECD P 24475 03 OF 03 222016Z

OTHER GOVERNMENTS MUST INDICATE, AT LEAST ON AN AD REFERENDUM BASIS, A WILLINGNESS TO ACCEPT A HIGHER DEGREE OF TRANSPARENCY IN PRACTICES AND PROCEDURES, AS WELL AS A LARGER PRODUCT AND ENTITY COVERAGE, THAN IS NOW BEING REVEALED IF THERE IS TO BE A SUFFICIENT BASIS FOR REAL NEGOTIATIONS. FRENCH DEL STATED GOF INTENTION TO MAKE MAXIMUM EFFORT FOR NEXT MEETING, STRESSING IMPORTANCE OF ACHIEVING AGREEMENT AMONG KEY COUNTRIES IN OECD ON MOST SIGNIFICANT ISSUES. GROUP AGREED AGENDA FOR NEXT MEETING SHOULD INCLUDE FOUR ITEMS MENTIONED BY EC COMMISSION, PLUS THRESHHOLD (AT REQUEST OF UK), BUT ALSO BE OPEN TO DISCUSSION OF ALL OTHER UNRESOLVED ISSUES (AS DESIRED BY US AND FRG).

12. NEXT MEETING: GROUP AGREED TO MEET AGAIN DECEMBER 8-12. AFTERNOON OF FIRST DAY WILL BE DEVOTED TO INFORMAL MEETING OF KEY DELS TO DISCUSS POSSIBLE DRAFT DEROGATION LANGUAGE. QUESTION OF WHETHER DRAFT REPORT TO TRADE COMMITTEE (IF THIS AGREED UPON AT SEPT. 23-24 MEETING OF TC) WOULD BE APPROVED BY PERMDELS OR AT POSSIBLE JAN. MEETING OF WORKING PARTY WAS LEFT OPEN. TURNER

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## Message Attributes

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**Copy:** SINGLE  
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**Decaption Note:**  
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**Disposition Approved on Date:**  
**Disposition Authority:** SmithRJ  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
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